

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

FILED
U.S. DISTRICT COURT

<p>UNITED STATES OF AMERICA,</p> <p style="text-align: right;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>JOHN P. LEARY,</p> <p style="text-align: right;">Defendant.</p>	<p style="text-align: right;">2006 FEB -9 A 9:37</p> <p style="text-align: right;">DISTRICT OF UTAH</p> <p style="text-align: center;">MEMORANDUM DECISION AND ORDER <small>BY: DEPUTY CLERK</small></p> <p style="text-align: center;">Case No. 2:03 CR 458 TC</p>
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On October 11, 2005, the court received the United State's Motion for Final Order of Forfeiture. Defendant John P. Leary filed an objection, contesting the propriety of the United State's motion and requesting that all forfeiture proceedings be stayed.

The court denies Mr. Leary's request for a stay and disregards his objections to the entry of a final order of forfeiture because Mr. Leary lacks standing. This court entered a preliminary order of forfeiture on October 26, 2004. That order was expressly designated as final so far as Mr. Leary's interest in the property was concerned. Cf. United States v. Christunas, 126 F.3d 765, 769 (6th Cir. 1997) ("A forfeiture order, whether preliminary or final as to third-party claimants, is a final order as to the defendant."). The preliminary forfeiture order deprived Mr. Leary of any interest he may have had in the property and therefore Mr. Leary cannot contest the entry of a final order of forfeiture. See United States v. Bennett, 2004 WL 829015, *2 (S.D.N.Y. 2004) (holding that a defendant is unable to participate in ancillary proceedings regarding property subject to a preliminary order of forfeiture).

As a result, Mr. Leary's request that forfeiture proceedings be stayed is DENIED.

DATED this 9 day of February, 2006.

BY THE COURT:

A handwritten signature in black ink, reading "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL
United States District Judge